

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSHUA JOHN WELLIVER,

Defendant.

CR 19–153–BLG–DLC

ORDER

United States Magistrate Judge Timothy J. Cavan entered Findings and Recommendation in this matter on January 23, 2020. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Cavan recommended this Court accept Joshua John Welliver’s guilty

plea after Welliver appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to possession with intent to distribute heroin in violation of 21 U.S.C. § 841(a)(1), possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(I), and prohibited person in possession of firearms in violation of 18 U.S.C. § 922(g)(1) as charged in Counts I, II, and III of the Indictment.

I find no clear error in Judge Cavan's Findings and Recommendation (Doc. 26), and I adopt them in full.

Accordingly, IT IS ORDERED that Joshua John Welliver's motion to change plea (Doc. 20) is GRANTED and Joshua John Welliver is adjudged guilty as charged in Counts I, II, and III of the Indictment.

DATED this 10th day of February, 2020.



Dana L. Christensen, Chief District Judge
United States District Court